



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 5, 1996

Ms. Sandra C. Joseph
Open Records Counsel/Disclosure Officer
Office of the Comptroller of Public Accounts
LBJ State Office Building
111 East 17th Street
Austin, Texas 78774

OR96-482

Dear Ms. Joseph:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 38223.

The Comptroller of Public Accounts (the "comptroller") received a request for information relating to taxes paid by petroleum refineries or petrochemical plants located in Texas. The request contains fifteen separate requests, numbered 1 through 15. You assert that you do not have to respond to many of these requests because they are general inquiries, would require the comptroller to conduct research, involve voluminous information, and because you believe that certain requested information may be excepted from disclosure under section 552.101 of the Government Code.¹

Initially, you object because many of the individual requests are phrased in the form of questions or requests for general information, rather than a request for specific documents or recorded information. A governmental body is not required under the Open Records Act to answer general questions. Open Records Decision Nos. 563 (1990) at 8, 379 (1983) at 4. We agree that a number of the requests are not phrased as requests for documents or other recorded information, but are general inquiries or questions. Based on previous rulings of this office, you are not required to answer requests 1, 3, 6, and 8.

¹The comptroller did not object to responding to requests 13, 14 and 15. Therefore, we do not address these requests in this ruling.

In response to requests 2, 5, 7, 9, 11, and 12, you contend that you are prohibited from responding to these requests under section 552.101 of the Government Code in conjunction with section 151.027(b) of the Tax Code. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information made confidential by a specific statute. Section 151.027(b) of the Tax Code provides that "information secured, derived, or obtained during the course of an examination of a taxpayer's books, records, papers, officers, or employees, including the business affairs, operations, profits, losses, and expenditures of the taxpayer, is confidential." The requestor seeks the names of particular entities that fit particular descriptions and under certain, specified circumstances. The comptroller obtained the information at issue during an audit of taxpayer documents covered by section 151.027(b). We agree that disclosing the name of a taxpayer identified by the circumstances surrounding its audit would constitute disclosure of the taxpayer's business affairs. See, e.g., Attorney General Opinion JM-590 (1986) (when announcing rulings in administrative hearings, comptroller should not do so in manner that would make possible identification of the taxpayers involved). A company's name associated with a specific, identifying set of circumstances or characteristics that are obtained from an examination of taxpayer information is confidential under section 151.027(b). Therefore, under section 552.101 of the Government Code, the comptroller may not provide the names of entities meeting certain qualifications, the amounts assessed or received from specific entities, and other information that was obtained from a taxpayer's books, records, papers, officers, or employees, in response to requests 2, 5, 7, 9, 11, and 12. See generally *A & T Consultants, Inc. v. Sharp*, 904 S.W.2d 688 (Tex. 1995) (construing similar tax code confidentiality provisions).

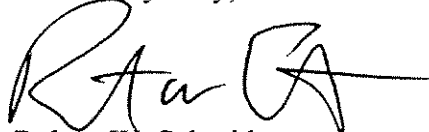
In response to request 10, you indicate that the comptroller does not maintain the information that would be responsive to the request and that the comptroller would have to contact taxpayers to obtain the requested information. A governmental body is not required to create or obtain new information in response to an open records request. *Id.* at 676. Thus, the comptroller is not required to obtain information to respond to request 10.

In request 4, the requestor seeks a list of the beginning and ending dates for certain administrative or judicial proceedings instituted against taxpayers. You contend that no list exists. A governmental body is not required to create new information in response to a request for information. *Id.* Additionally, this office has held that a governmental body is not required to extract or compile information from documents when it could make the documents available. Open Records Decisions Nos. 353 (1982) at 2, 87 (1975) at 5. Because the beginning and ending dates of a completed judicial or administrative action are public information, *A & T Consultants, Inc.*, 904 S.W.2d at 678, however, the comptroller must make available any documents or portions of documents that were in existence at the time the request was received that contain this information. Information within these documents that is confidential, however, may not be disclosed. See Gov't Code § 552.352.

Finally, we note that in response to request 4, as well as several other requests, you assert that the comptroller is not required to respond because responding would require research or would otherwise be burdensome. Although a governmental body is not required to conduct research to respond to questions, Open Records Decision No. 563 (1990) at 8, we do not believe that reviewing comptroller files to determine if specific information exists may be considered "research" that is not required by the act. *Compare e.g.* Open Records Decision No. 563 (1990) at 8 (request seeking "documents showing the authority" of governmental body to engage in certain activities is request for research and governmental body not required to respond). A governmental body may not refuse to comply with an open records request merely because it would be difficult to do so. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 687 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Section 552.222(b) of the Government Code provides that if a large amount of information has been requested, the governmental body may discuss with the requester how the scope of a request might be narrowed. *See also* Open Records Decision Nos. 561 (1990), 563 (1990). A governmental body is required, however, to make a good faith effort to advise the requester of the types of documents available that may be responsive to the request. Open Records Decision Nos. 561 (1990), 563 (1990), 87 (1975).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and is not a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "R. Schmidt", with a stylized flourish at the end.

Robert W. Schmidt
Assistant Attorney General
Open Records Division

RWS/rho

Ref.: ID# 38223

Enclosures: Submitted documents

cc: Mr. Joe Cox
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(w/o enclosures)